

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Rodricka J. Gambrell,	)	
	)	
Petitioner,	)	Cr No.: 6:06-cr-01094-GRA-02
	)	
v.	)	<b>ORDER</b>
	)	(Written Opinion)
United States of America,	)	
	)	
Respondent.	)	
	)	

This matter comes before the Court pursuant to Petitioner's Motion under Judicial Notice to Amend/Correct. For the reasons stated herein, Petitioner's Motion is DISMISSED.

Petitioner brings this motion *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

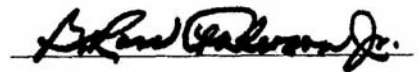
Because Petitioner is seeking to amend or correct his sentence by alleging that he "is not a[n] Arm[ed] Career Criminal," the Court finds that the matter should be construed as a petition for habeas corpus relief under 28 U.S.C. § 2255. It is well-established that, "[a]s a threshold matter, . . . defendants convicted in

federal court are obliged to seek habeas relief from their convictions and sentences through § 2255.” *Rice v. Rivera*, 617 F.3d 802, 807 (4th Cir. 2010). Under 28 U.S.C. § 2255(h), “[a] second or successive [§ 2255] motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals . . . .” Furthermore, 28 U.S.C. § 2244(b)(3)(A) states that, “[b]efore a second or successive application . . . is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.”

Here, Petitioner previously filed a § 2255 motion, which was denied by this Court. *See* ECF No. 71 & 76. The Fourth Circuit Court of Appeals upheld this Court’s denial. *See* ECF No. 90. Petitioner does not allege that he has obtained an order of certification from the Fourth Circuit authorizing this Court to consider his second § 2255 motion. Therefore, the instant petition should be dismissed because this Court lacks jurisdiction to hear a second/successive § 2255 motion filed by Petitioner.

**IT IS THEREFORE ORDERED** that Petitioner’s Motion is DISMISSED.

**IT IS SO ORDERED.**



G. Ross Anderson, Jr.  
Senior United States District Judge

January 10, 2012  
Anderson, South Carolina

**NOTICE OF RIGHT TO APPEAL**

Defendant is hereby notified that he has the right to appeal this Order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified within Rule 4, will waive the right to appeal.